

REMARKS

This amendment is submitted after final rejection under 37 CFR 1.116 because Applicant believes that all claims now presented are in condition for allowance. In any event entry of this amendment will place the application in better form for appeal. No new matter has been added and no new issues have been raised. Finally the changes in the claims and the arguments presented are in direct response to points raised by the Examiner in the last office action and Applicant could not have filed her response at an earlier date.

Applicant appreciates the Examiner's indication that method of treatment claim 35 is directed to allowable subject matter. Applicant has canceled all claims last presented and is submitting new method of treatment claims 36 through 38. Antecedent basis for claims 36 through 38 may be found in the specification in the examples on page 4 through 11. Thus claims 36 through 38 are now presented for examination.

Claim 38 is analogous to claim 35 last presented except that claim 38 has been written in independent form. Claims 36 and 37 are also independent claims, but are of a scope slightly broader than that of claim 38. Claims 36 and 37 are still narrower than method of treatment claims 33 and 34 last presented which the Examiner has rejected under 35 USC 103 as obvious in view of U.S.

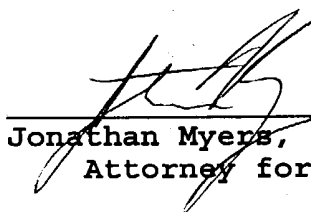
Patent 6,132,724 to BLUM. Nowhere in BLUM is there a disclosure or suggestion of any of the mixtures of plant extracts covered in claims 36 and 37 containing *escolsica californica*. Thus these claims are believed to be free of the prior art for the same reason that claim 38 is free of the prior art.

The Examiner has rejected claim 35 under 35 USC 112, second paragraph, as indefinite and has specifically requested clarification as to what is "*escolsica californica*." Applicant is enclosing two references in Italian with translated excerpts in English to better describe what is "*escolsica californica*." According to La plante amiche del nostro benessere (Plants Friend of Our Good Health), Phytotherapy: Instructions for Use, Gervasutti, C., Sannia, A., UTET, p. 37, 1999, the extract of this plant contains 0.2% protoberberenic alkaloids. According to Tobaccologia, (Tobaccology), Tinghino, B., Plants Acting on Neurotic, Sleeping and Mood Disorders, p. 34 (2003), "*escolsica californica*" is a plant belonging to the Papaveraceae, and the employed part of this botanical is the blossomed aerial portion. The extract has a soporific and a sedative action. The active principles are alkaloids having an isoquinolinic nucleus (protopine, sanguinarine, chelidonine, criptopine, allocriptopine, marcapine). Other identified alkaloids include 10-OH-

dihydrosangunarine and 12-OH-dihydrochelirubine. Now that Applicant has included two references from the literature describing what is "escolsica californica", there is no reason to reject any claim now presented under 35 USC 112, second paragraph.

Applicant believes that claims 36 through 38 are in condition for allowance and a response to theta effect is earnestly solicited. Applicant is enclosing a petition to obtain a three month extension of the term for filing a response and authorization to charge the cost of obtaining the extension of the term to the deposit account 18-2025 of the undersigned.

Respectfully submitted,
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Enclosures: Petition for Extension

2 articles describing escolica californica